



DEPARTMENT OF ENERGY  
Federal Energy Regulatory Commission

[Project No. 9709-070]

ECOsponsible, LLC; Notice of Termination of License (Major Project) by Implied  
Surrender and Soliciting Comments, Protests, and  
Motions to Intervene

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

- a. Application Type: Termination of License by Implied Surrender
- b. Project No: 9709-070
- c. Date Initiated: November 8, 2021
- d. Licensee: ECOsponsible, LLC
- e. Name of Project: Herkimer Hydroelectric Project
- f. Location: The Herkimer Hydroelectric Project is located on the West Canada Creek, Herkimer County, New York.
- g. Filed Pursuant to: Standard Article 26
- h. Applicant Contact: Mr. Dennis Ryan, ECOsponsible, LLC, 469 Snyder Road, East Aurora, New York, 14052-9710
- i. FERC Contact: David Rudisail, (202) 502-6376, [david.rudisail@ferc.gov](mailto:david.rudisail@ferc.gov)
- j. Deadline for filing comments, motions to intervene and protests: **December 27, 2021**

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue,

Rockville, Maryland 20852. The first page of any filing should include docket numbers P-9709-070. Comments emailed to Commission staff are not considered part of the Commission record.

k. Description of Project Facilities: The project works include: a timber crib dam with a 9-foot-high, 95-foot-long section reaching a crest elevation of 420 feet mean sea level (msl) and 12-foot-high, 145-foot-long section reaching a crest elevation of 419.2 feet msl; a reservoir with a surface area of 19 acres, storage capacity of 163 acre-feet, and normal water surface elevation of 420.5 feet msl; timber flashboards; an intake structure; a reinforced concrete and steel powerhouse containing four generating units with a capacity of 400 kilowatts (kW) each and an 80-kW minimum flow generator at the base of the dam for a total installed capacity of 1,680 kW; a 50-foot-long, 13.2-kilovolt transmission line; and appurtenant facilities. The project has been not operated since 2006.

l. Description of Proceeding: License Article 26 states in part: *If the licensee shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the licensee or its agent, the Commission will deem it to be the intent of the licensee to surrender the license.*

The project has fallen into disrepair and has not operated since 2006. The project was transferred to the licensee by order dated March 12, 2015 (2015 Order). The 2015 Order required the licensee to file a plan and schedule to restore project operation within 60 days. Since that time, the Commission's Division of Dam Safety and Inspections New York Regional Office (NYRO) has issued eight letters requiring the licensee to file a plan and schedule to make the needed repairs and to restore project operation. The licensee has responded over the years with at least five plans, but all have been deficient because they lack sufficient detail for NYRO's review and approval. The licensee has never filed satisfactory plans and specifications to repair the project. On August 26, 2021, NYRO inspected the project and found it in unsatisfactory condition and largely abandoned. The licensee did not attend the inspection and has failed to respond to phone calls and emails since. In a final letter to the licensee dated October 18, 2021, NYRO again required the licensee to reply to past letters but the licensee has stopped responding to the Commission.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR § 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Agency Comments: Federal, state, and local agencies are invited to file

comments on the described proceeding. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

p. Filing and Service of Responsive Documents: Any filing must (1) bear in all capital letters the title “COMMENTS,” “PROTEST,” or “MOTION TO INTERVENE” as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR § 385.2001-385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR § 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the implied surrender. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR § 4.34(b) and 385.2010.

Dated: November 10, 2021.

Kimberly D. Bose,  
Secretary.

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